

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3971 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

SURESHCHANDRA A. VYAS

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Appearance:

MR HARDIK C RAWAL for Petitioner

UNSERVED-EXPIRED (N) for Respondent No. 1

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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 09/03/2000

ORAL JUDGEMENT

Heard learend advocate Mr. Hardik Rawal for the petitioner-Corporation.

2. Though served, no one appears on behalf of the respondent.

3. Learned advocate Mr. Rawal has pointed out that the Labour Court, Nadiad by way of an Award dated 3rd June, 1988, has granted reinstatement of the respondent-workman with continuity of service with 75% of the backwages for the interim period. At the time of admission hearing of this matter, this Court on 18th July, 1989 has made the following order :-

`Rule returnable on 21st August, 1989.

Ad-interim relief against the recovery of more than 50% of backwages meaning thereby that the Award will operate to the extent of 50% if backwages till further orders. Notice as to interim relief returnable on 21st August, 1989.'

3. Considering the above interim order which has been passed by this Court at the time of issuing Rule, this Court has allowed to the respondent-workman 50% of the backwages and granted stay against the 25% backwages till further orders.

4. Learned advocate Mr. Rawal informed this Court that according to the aforesaid directions issued by this Court, the respondent-workman was reinstated in service and 50% of the backwages had been paid now only the question of remaining amount of about 25% of the backwages needs adjudication. Mr. Rawal has submitted that when this Court has considered it proper; at the time of admitting the matter and issuing Rule to grant only 50% of the backwages and staying 25% thereof, meaning thereby this award is required to be modified in terms of the interim releif which has been granted by this Court. He further pointed out that the respondent workman remained absent without submitting his leave report in advance and without even seeking previous sanction for the period 1.2.1978 to 15.12.1978, therefore, he was dismissed from service by the petitioner-Corporation. Mr. Raval submitted that the past record of the respondent workman has been produced before the Labour Court and the same is also produced by this Court vide Annexure-B wherein in all thirty defaults in past have been committed by the respondent-workman and out of these 30 defaults, almost 23 defaults are relating to absentism and punishment wherein has been imposed upon the respondent workman on each occasion by the petitioner-Corporation and inspite of that fact, there was no improvement, therefore, ultimately, the respondent workman was dismissed from service on 22nd December, 1979. Mr. Rawal, submitted that considering the past

record of the respondent-workman 25% of the backwages for the interim period can be denied to him which will justify the past record as well as present misconduct in question.

5. I have considered the submission made by Mr. Rawal, learned advocate appearing for the petitioner Corporation. It appears that out of 30 defaults committed by the respondent-workman, 23 defaults pertains to absentism and the present one is also relating to the absentism. The Labour Court, Nadiad has committed an error in respect of granting 75% of the backwages for the interim period, and therefore, the said award is required to be modified to the effect that the respondent-workman is entitled to reinstatement with continuity in service with 50% of the backwages for the period period. And accordingly, this petition is partly allowed and the order passed by the Labour Court, Nadiad in Reference (LCN) No. 304 of 1983 dated 3rd June, 1988 is hereby modified as under :-

6. The respondent-workman is entitled to reinstatement with continuity in service with 50% {fifty per cent} backwages for the interim period.

7. Rule is made absolute to the aforesaid extent. Ad-interim relief which has been granted earlier stands vacated. There shall be no order as to costs.

[H.K Rathod, J.]

Prakash\*